

LEGISLATURE OF THE STATE OF IDAHO  
Sixty-first Legislature First Regular Session - 2011

IN THE SENATE

SENATE BILL NO. 1081

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO THE IDAHO STATE SCHOOL AND HOSPITAL; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-234, IDAHO CODE, TO PROVIDE FOR LEGISLATIVE INTENT; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-234A, IDAHO CODE, TO DEFINE TERMS; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-235A, IDAHO CODE, TO PROVIDE FOR PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON ADMISSIONS; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-235B, IDAHO CODE, TO PROVIDE FOR DISCHARGE PLANNING AND AUTHORIZATION TO DISCHARGE; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-235C, IDAHO CODE, TO PROVIDE FOR NOTICE OF DISCHARGE AND REQUEST FOR HEARING; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-235D, IDAHO CODE, TO PROVIDE FOR APPEALS; AND AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-235E, IDAHO CODE, TO PROVIDE FOR RULEMAKING AUTHORITY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-234, Idaho Code, and to read as follows:

56-234. LEGISLATIVE INTENT. It is hereby declared by the legislature that, in keeping with current state and national goals and best practice, increasing numbers of persons with developmental disabilities are being discharged to community facilities or private residences as an alternative to large public institutions licensed as intermediate care facilities for persons with intellectual disabilities. Such deinstitutionalization is highly desirable since it can lead to a fuller, richer and more independent life for persons with developmental disabilities. Recognizing that every individual has unique needs and differing abilities, the purpose of the following provisions is to clarify the department of health and welfare's duties and responsibilities with respect to persons with developmental disabilities, who are or may become residents of the Idaho state school and hospital, a public institution licensed for nine (9) or more beds as an intermediate care facility for persons with intellectual disabilities. The following provisions shall be liberally construed to accomplish these purposes.

SECTION 2. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-234A, Idaho Code, and to read as follows:

56-234A. DEFINITIONS. As used in sections 56-234 through 56-235E, Idaho Code:

(1) "Admission-discharge committee" means an interdisciplinary team of at least three (3) individuals designated by the director to evaluate persons as required by the provisions of sections 56-234 through 56-235E, Idaho Code. Each committee member must be specially qualified by training and experience in the diagnosis and treatment of persons with a developmental disability.

(2) "Certified family home" means a family home as defined in section 39-3502, Idaho Code.

(3) "Community facility" means a privately owned or operated nursing facility, intermediate care facility for persons with intellectual disabilities, licensed residential or assisted living facility, other organization licensed, recognized, or certified by the department to provide care or treatment to persons with developmental disabilities, or a publicly owned or operated facility licensed for eight (8) beds or less as an intermediate care facility for persons with intellectual disabilities.

(4) "Department" means the Idaho department of health and welfare.

(5) "Developmental disabilities" means a chronic disability of a person as defined in section 66-402, Idaho Code.

(6) "Director" means the director of the Idaho department of health and welfare or his designee.

(7) "Discharge" means an admission-discharge committee has determined that there is an available community facility or private residence that is least restrictive, appropriate and consistent with the needs of the individual.

(8) "Medically fragile" means an individual with a developmental disability and a chronic medical condition that is characterized by periods of acute exacerbation or potentially life-threatening episodes and that may require frequent hospitalizations or prolonged recuperation periods and ongoing monitoring and assistance by a licensed registered nurse.

(9) "Private residence" means a certified family home or a single family dwelling or apartment in a multiple dwelling or apartment complex that is used by an individual as a place of abode and that is not used for commercial purposes.

(10) "Resident" means an individual who is admitted to or resides at the Idaho state school and hospital.

(11) "Transfer" means relocating and moving a person who is a resident of the Idaho state school and hospital from that institution to a community facility or private residence or from one (1) community facility or private residence to another. Transfer does not include relocating or moving a resident of the Idaho state school and hospital between rooms or beds within the Idaho state school and hospital.

SECTION 3. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-235A, Idaho Code, and to read as follows:

56-235A. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON ADMISSION. (1) The Idaho state school and hospital shall not admit, accept or receive any person unless an admission-discharge committee determines that:

(a) The individual has a developmental disability;

(b) The individual meets the level of care requirements and active treatment requirements for admission to an intermediate care facility for persons with intellectual disabilities;

(c) All community facilities, options and supports have been exhausted, and there is no available community facility or private residence that is least restrictive, appropriate and consistent with the needs of the individual; and

(d) The Idaho state school and hospital is the least restrictive available residential placement consistent with the needs of the individual after considering all available and appropriate community facilities and private residences.

(2) The director may limit admissions and establish admission priorities to the Idaho state school and hospital through rulemaking in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department to the facility. The Idaho state school and hospital may refuse any applicant for voluntary admission.

(3) Subsections (1) and (2) of this section do not apply to:

(a) Temporary emergency admissions or placements for crisis stabilization only, for up to ninety (90) days, that are preauthorized by the director; or

(b) Admissions or placements made by the director pursuant to section 66-406, Idaho Code.

SECTION 4. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-235B, Idaho Code, and to read as follows:

56-235B. DISCHARGE PLANNING -- AUTHORIZATION TO DISCHARGE. The director may discharge a resident of the Idaho state school and hospital on such terms and conditions as the director may determine whenever an admission-discharge committee determines there is an available community facility or private residence that is least restrictive, appropriate and consistent with the individual's needs. The director shall use reasonable efforts to discharge a resident to a community facility or private residence where the individual can be readily visited by those persons interested in his well-being.

SECTION 5. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-235C, Idaho Code, and to read as follows:

56-235C. NOTICE OF DISCHARGE -- REQUEST FOR HEARING. (1) Before a discharge plan is implemented, the resident and the resident's spouse, guardian, adult next of kin or friend, if any, shall be given an opportunity to participate in the development and review of the admission-discharge committee's discharge plan.

(2) If, after reasonable efforts have been exhausted, the resident or the resident's spouse, guardian, adult next of kin or friend, if any, does not agree with the admission-discharge committee's discharge plan, ninety (90) days prior to discharge, written notice shall be filed with the committing court, if any, and served by registered or certified mail upon the

1 resident, resident's attorney, and either the resident's spouse, guardian,  
 2 adult next of kin or friend, if any. The written notice must include a state-  
 3 ment advising the resident of the right to request a hearing by the director  
 4 and must also include a statement advising the resident of the right to judi-  
 5 cial review.

6 (3) Within fifteen (15) days from receipt of the notice of discharge,  
 7 the resident may serve a written request for hearing upon the director. Upon  
 8 receipt of such request, the director shall fix a date for hearing, which  
 9 date shall not be more than thirty (30) days from receipt of the request, and  
 10 shall give the resident at least fifteen (15) days' written notice of said  
 11 hearing date. Within thirty (30) days after the conclusion of the hearing,  
 12 the director shall notify the resident in writing by registered or certified  
 13 mail of his decision. A transfer shall not be implemented during any period  
 14 in which a request for hearing is pending and undecided by the director. If  
 15 no request for hearing is made within fifteen (15) days from receipt of the  
 16 notice of discharge, the director may discharge the resident.

17 (4) The director shall periodically monitor the adjustment of the for-  
 18 mer resident to his transfer to a community facility or private residence.  
 19 If within ninety (90) days following a transfer to a community facility or  
 20 private residence, an admission-discharge committee determines that the  
 21 former resident is not adjusting to the transfer and there is no other avail-  
 22 able community facility or private residence least restrictive, appropriate  
 23 and consistent with the needs of the former resident, the director may make  
 24 the determination that the former resident be readmitted to the Idaho state  
 25 school and hospital in accordance with section 56-235A, Idaho Code.

26 SECTION 6. That Chapter 2, Title 56, Idaho Code, be, and the same is  
 27 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 28 ignated as Section 56-235D, Idaho Code, and to read as follows:

29 56-235D. APPEALS. If a former resident feels aggrieved by a deci-  
 30 sion of the director rendered pursuant to a hearing as provided in section  
 31 56-235C, Idaho Code, appeal may be taken to the committing court or the court  
 32 of the county in which such former resident is present. Appeal must be taken  
 33 in the manner and form set forth in chapter 52, title 67, Idaho Code, provided  
 34 however, the filing of a notice of appeal with the court shall not, unless  
 35 otherwise ordered, stay the resident's discharge or the decision of the di-  
 36 rector.

37 SECTION 7. That Chapter 2, Title 56, Idaho Code, be, and the same is  
 38 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 39 ignated as Section 56-235E, Idaho Code, and to read as follows:

40 56-235E. RULEMAKING AUTHORITY. The director, in addition to other du-  
 41 ties imposed by law, is hereby authorized and directed through rulemaking  
 42 to establish procedures necessary to implement these provisions. The rule-  
 43 making authority granted in this section shall be limited to the specific  
 44 standards and procedures required by sections 56-234 through 56-235D, Idaho  
 45 Code.